

00647

1983/05/11

PROTOCOL BETWEEN
THE DEPARTMENT OF ENERGY
OF THE
UNITED STATES OF AMERICA
AND
THE STATE SCIENCE AND TECHNOLOGY COMMISSION
OF THE
PEOPLE'S REPUBLIC OF CHINA
ON COOPERATION IN THE FIELDS OF
NUCLEAR PHYSICS AND CONTROLLED MAGNETIC FUSION RESEARCH

The Department of Energy of the United States of America and the State Science and Technology Commission of the People's Republic of China (hereinafter referred to as the Parties), for the purpose of promoting cooperation in the fields of Nuclear Physics and Controlled Magnetic Fusion Research, and, according to the Agreement between the Government of the United States of America and the Government of the People's Republic of China on Cooperation in Science and Technology, signed in Washington, D.C., on January 31, 1979, have agreed as follows:

Article 1

The Parties agree, on the basis of equality, reciprocity and mutual benefit, to cooperate with each other in promoting each other's programs in Nuclear Physics and Controlled Magnetic Fusion.

Article 2

Cooperation under this Protocol may take the following forms:

1. Exchange and provision of information and data on scientific and technical development, activities and practices in the fields of nuclear physics and controlled magnetic fusion;
2. Research and development activities in the forms of experiments, tests, and other technical collaborative activities;
3. Exchange of scientists, engineers, and other specialists to the facilities of the other Party for visits or short-term work;
4. Exchange and provision of samples, materials, instruments, and components for scientific research;
5. Such other forms of cooperation as are mutually agreed.

Article 3

The Parties shall encourage and facilitate contacts, cooperation and specific cooperative activities between universities, research institutions and scientists of the two countries.

Article 4

A Working Group shall be set up to coordinate the activities stipulated under this Protocol and its Annexes. Each Party shall designate three persons to be members of the Working Group, one as Co-Chairperson for overall coordination, one as Coordinator for Nuclear Physics and one as Coordinator for Controlled Magnetic Fusion. The Coordinators shall, by correspondence, consult with each other and define the cooperative activities and other relevant matters. When necessary, a meeting may be called by mutual agreement to consider matters related to the implementation of this Protocol.

Article 5

The specific tasks, obligations, and conditions, with respect to the stipulated activities of this Protocol and its Annexes, including responsibility for the payment of costs, shall be decided through mutual agreement by the Parties on a case-by-case basis.

The specific cooperative activities, as mutually agreed, shall be embodied in Annexes to this Protocol. The specific arrangements, including financial arrangements for these activities, shall be confirmed by correspondence between Coordinators or their representatives.

Article 6

All activities stipulated under this Protocol and its Annexes shall be conducted under the guidance of the US-PRC Joint Commission on Scientific and Technological Cooperation.

Article 7

The application or use of any information exchanged or transmitted between the Parties under this Protocol shall be the responsibility of the Party receiving it, and the transmitting Party does not warrant the suitability of such information for any particular use or application.

Article 8

The Parties agree to reach an accord concerning protection of copyrights and treatment of inventions or discoveries made or conceived under this Protocol in order to undertake specific activities. Such accord shall be made as an Annex to this Protocol.

Article 9

The Parties agree that in the event equipment is to be exchanged or supplied by one Party to the other Party for use in cooperative activities, they shall enter into specific understandings on a case-by-case basis.

Article 10

1. Whenever an attachment of staff is contemplated under this Protocol, both Parties shall be satisfied that only staff with necessary skills and competence are selected.
2. Each attachment of staff shall be made through an exchange of letters between the participating institutions concerning funding and other relevant matters not specified in this Protocol.
3. Each Party shall provide all necessary assistance to the attached staff (and their families) of the other party as regards administrative formalities, travel arrangements and accommodations.

Article 11

All cooperative activities under this Protocol shall be subject to the availability of funds and personnel and to the laws and regulations of the respective countries.

Article 12

1. All issues related to this Protocol or occurring in the activities carried out hereunder shall be settled by agreement of the Parties.
2. Each Party will accept liability to the extent authorized by its national laws and regulations for damages arising from cooperative activities under this Protocol.

Article 13

1. This Protocol shall enter into force upon signature, and, unless terminated earlier in accordance with paragraph 2 of this Article, shall remain in force for a five-year period. It may be amended or extended by mutual written agreement of the Parties.
2. This Protocol may be terminated at any time at the discretion of either Party, upon six months advance notification in writing by the Party seeking to terminate the Protocol.
3. The termination of this Protocol shall not affect the validity or duration of the specific activities initiated but uncompleted under this Protocol.

Done at Beijing, on the Eleventh day of May of 1983, in
duplicate in the English and Chinese languages, both equally
authentic.

Al W Truface

For the
Department of Energy
of the
United States of America



For the
State Science and
Technology Commission
of the
People's Republic of China

ANNEX I

To the Protocol on Cooperation in the Fields of
Nuclear Physics and Controlled Magnetic Fusion Research
between the
Department of Energy of the United States of America
and the
State Science and Technology Commission
of the People's Republic of China

In accordance with Article 8 of the Protocol on Cooperation in the Fields of Nuclear Physics and Controlled Magnetic Fusion Research between the Department of Energy of the United States of America and the State Science and Technology Commission of the People's Republic of China (hereinafter referred to as the Protocol), signed in Beijing on May 11, 1983 by the Department of Energy of the United States of America and the State Science and Technology Commission of the People's Republic of China (hereinafter referred to as the Parties), the Parties agree as follows:

1. All information of each Party provided to the cooperative program under the Protocol or Annexes and all information arising from the Protocol or Annexes, except any information of a confidential nature, may be published through scientific journals and other channels commonly used for dissemination of scientific and technological information. The Parties agree that any information of a confidential nature exchanged under the Protocol or Annexes (such as trade secrets and technical know-how or information with obligation concerning its confidentiality requested by either Party), shall be protected. A decision to introduce and furnish such information shall be made only by mutual agreement of the parties which may be arrived at on a case-by-case basis through consultation between the representatives designated by both Parties or their designated coordinators under Article 4 of the Protocol, or as otherwise agreed by the Parties; the terms and conditions for such agreement shall be set forth in Annexes as described in Article 5 of the Protocol.

2. As to inventions or discoveries made or conceived under the Protocol or Annexes, the Parties agree:

A. If the invention or discovery is made or conceived by personnel of one Party as a result of the exchange of information between the Parties, such as by joint meetings, seminars, or exchange of technical reports or papers:

- (1) The Party whose personnel made the invention or discovery (the inventing Party) is entitled to obtain all rights and interests in the invention or discovery in all countries, subject to a nonexclusive, irrevocable, royalty-free license to the other Party, its government and nationals; and
- (2) In the event the inventing Party decides not to obtain such rights and interests in the other Party's country, or a third country, the other Party may do so, subject to a nonexclusive, irrevocable, royalty-free license to the inventing Party, its government and nationals.
- B. If the invention or discovery is solely or jointly made or conceived by personnel of one Party (the assigning Party) while assigned to the other Party (the receiving Party) during exchange of scientific and technical personnel:
- (1) The receiving Party is entitled to obtain all rights and interests in the invention or discovery in its country, and third countries, and the assigning Party is entitled to all rights and interests in its country and a nonexclusive, irrevocable, royalty-free license in third countries for use by the assigning Party, its government and nationals; and
- (2) In the event the receiving Party decides not to obtain such rights and interests in third countries, or a particular third country, the assigning Party may do so, subject to a nonexclusive, irrevocable, royalty-free license to the receiving Party, its government and nationals.
- C. If the invention or discovery is made or conceived as a result of other forms of cooperation, such as collaborative research and development activities, as set forth in Article 2 of the Protocol, or if an invention or discovery is made or conceived under the circumstances of paragraph 1 above by personnel of both Parties (co-inventors), the Parties shall provide for appropriate distribution of the rights thereto in annexes as described in Article 5 of the Protocol. In general, each Party shall normally own the rights to such inventions in its own country, and third-country rights shall be agreed upon by the Parties on an equitable basis.

D. The Party whose personnel made the invention or discovery shall communicate to the other Party information disclosing the invention, any patent or other protection it elects to obtain, and furnish documentation necessary for the establishment of the other Party's rights in the invention. The communicating Party may ask the other Party to delay publication or public disclosure of such information, provided that this restriction does not extend beyond a period of six months from the date of the communication of such information.

3. Either Party, or any entity acting under agreement with either Party, may obtain copyright protection in its own country and third countries on works which the Party or its entity originates under the Protocol or Annexes, in which event the non-originating Party, its government and nationals shall have a nonexclusive, irrevocable, royalty-free license under the copyrights to translate, reproduce, publish and distribute such works.

4. Each Party shall assume the responsibility to pay awards or compensation required to be paid to nationals of its own country according to the laws of its own country.

5. Other questions or issues that arise under this Annex shall be settled through consultation between the representatives designated by both Parties or their designated coordinators under Article 4 or as otherwise agreed by the Parties.

6. This Annex shall enter into force upon signature by both Parties and shall remain in force for the duration of the Protocol.

Done at Beijing, on the thirteenth day of March of 1986, in duplicate in the English and Chinese languages, both equally authentic.

For the Department of Energy
of the
United States of America

For the State Science and
Technology Commission of the
People's Republic of China

